

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

PREPARED BY: Christopher M. Gratz, Planner II

SUBJECT: Quasi Judicial Hearing: Ordinance 1st Reading, ZB 9-1-04 Lakeside Village at Davie, 6990 Griffin Road/Generally located on Griffin Road, east of SW 70 Avenue (Viele Road).

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 9-1-04, TERMINATING THE DECLARATION OF RESTRICTIONS ENTERED INTO BY MARGARET VIELE ON APRIL 12, 1989, ON CERTAIN LANDS WITHIN THE TOWN OF DAVIE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: On April 12, 1989, Margaret Viele entered into a Declaration of Restrictions, on the property located at 6990 Griffin Road. At the time, the property was zoned, A-1, Agricultural District. The intent of this Declaration was to vest the rights to certain uses that historically occurred on the property, and for the purpose of protecting the health, safety, and welfare of the residents of the subject property and the citizens of the Town of Davie.

Specifically, the Declaration of Restrictions limits the use of the property to the following: retail sale of antiques and/or county crafts within a completely enclosed structure not to exceed 6,000 square feet in floor area; agricultural uses such as the cultivation of crops, groves and grove packing house, and sales of agricultural products produced on site. On February 2, 2000, the northern 300' of the property adjacent to Griffin Road was rezoned to Griffin Corridor District (West Gateway Use Zone 1), with the intent of shaping urban form and land use along the Griffin Road corridor.

The property was recently sold to Lakeside Village at Davie, LLC. and a development proposal for the property is currently under consideration. The Declaration of Restrictions must be terminated in order to allow any use permitted by the Griffin Corridor Regulations. Staff has no objection to the request since it is necessary in order to implement the Griffin Corridor regulations.

PREVIOUS ACTIONS: None

CONCURRENCES: N/A

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Planning Report, Future Land Use Plan Map, Zoning and Aerial Map, Justification, Declaration of Restrictions

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 9-1-04, TERMINATING THE DECLARATION OF RESTRICTIONS ENTERED INTO BY MARGARET VIELE ON APRIL 12, 1989, ON CERTAIN LANDS WITHIN THE TOWN OF DAVIE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law to terminate the Declaration of Restrictions on certain lands within the Town entered into by Margaret Viele on April 12, 1989;

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the Declaration of Restrictions on the property herein after described be terminated:

- a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof;

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2004.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2004.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004.

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation



Applicant Information

Owner/ Petitioner:

Name: Jordan Klemow, Managing Member
Lakeside Village of Davie, LLC
Address: 2001 West Sample Road, Suite 320
City: Pompano Beach, FL 33064
Phone: (954) 969-5111

Background Information

Date of Notification: The Ordinance title is being advertised on October 29, 2004; five (5) days prior to the second reading. Florida Statutes and the Town Code do not require consideration by the Planning and Zoning Board, hearing notice sign, or mail out, since the Declaration of Restrictions were voluntary and were not imposed as the result of a condition of approval for a development request.

Application History: No deferrals have been requested.

Application Request: Terminate the Declaration of Restrictions entered into by Margaret Viele on April 12, 1989, on the property located at 6990 Griffin Road.

Address/Location: 6990 Griffin Road/Generally located on Griffin Road, east of SW 70 Avenue (Viele Road).

Future Land Use Plan Map Designations: Residential (10 DU/AC), 9.03 gross acres
Residential (5 DU/AC), 17.52 gross acres
Residential (1 DU/AC), 5.77 gross acres

Existing Density: 5.9 DU/AC (182 dwelling units)

Zoning: A-1, Agricultural District and Griffin Corridor District (West Gateway Use Zone 1)

Existing Use: Vacant historic single family home, defunct orange grove

Proposed Use: Any use permitted in the Griffin Corridor District (West Gateway Use Zone 1)

Gross Parcel Size: 30.862 acres (1,344,348.72 square feet)

Net Parcel Size: 29.37 acres (1,279,357.2 square feet)

Surrounding Uses:

North: Griffin Road, C-11 Canal

South: Single family dwellings

East: Vacant FDOT parcel, Single family dwelling, Office building, Old Davie School, Single family dwellings

West: Vacant parcel (proposed James Pirtle office building) and Single family dwellings

Surrounding Future Land Use Plan Map Designations:

North: Recreation/Open Space

South: Residential (1 DU/AC)

East: Regional Activity Center

West: Commercial and Residential (3 DU/AC)

Surrounding Zoning:

North: Griffin Road, Recreation/Open Space

South: A-1, Agricultural District

East: Griffin Corridor District (Downtown Use Zone 2)

RM-10, Medium Density Dwelling District

West: Griffin Corridor District (West Gateway Use Zone 1)

R-3, Low Density Dwelling District and A-1, Agricultural District

Zoning History

Related Zoning History: The northern 300' of the property adjacent to Griffin Road was rezoned to Griffin Corridor District (West Gateway Use Zone 1) on February 2, 2000.

Previous Requests on same property: The variance, V 5-3-98 Felicella/Viele, which requested four (4) variances to allow an office building at 6900 Griffin Road to become a legal conforming structure, was denied on February 3, 1999 (Motion carried 5-0).

The rezoning, site plan, and plat, known as Brookside at Davie (Centex Homes/Miller, Legg & Associates), were denied on August 20, 2003. The request was to rezone 23.659 acres from: A-1, Agricultural District to: Griffin Corridor District (West Gateway Use Zone 1); allocating 2.455 acres of commercial flexibility adjacent to Griffin Road and assigning 35 reserve units in order to allow the development of two (2) mixed use structures and 198 multi-family condominium units.

Applicable Codes and Ordinances

§12-32.300. Griffin Corridor District.

§12-32.301. Intent, applicability and boundaries.

(A) *Intent.* This district is intended to shape urban form and land use along the Griffin Road corridor. The regulations and intent statements contained herein together comprise a policy blueprint for corridor development. Specifically, the district is intended to accomplish the following:

- (1) Result in improved living and working environments relative to typical highway commercial development patterns.
- (2) Enhance the town's tax base by increasing property values through high-quality development, and assisting in the redevelopment of downtown.
- (3) Promote planned developments rather than haphazard speculative development that compromises the integrity of the corridor and the economic health of the town.
- (4) Promote land uses which attract people for specific purposes such as employment, entertainment, business needs, and shopping, as distinguished from land uses which depend largely upon pass-by traffic for business.
- (5) Create a showcase corridor which serves as the prominent east-west thoroughfare providing a linkage between the State Road 7, Florida Turnpike, Davie Road, and University Drive corridors; the major north-south urban thoroughfares within the town.
- (6) Protect the integrity of adjacent residential neighborhoods.
- (7) Permit a mix of residential and nonresidential development, including mixed uses within buildings or parcels.
- (8) Compliment rather than compete with downtown or University Drive commercial corridor development.
- (9) Encourage visual interest by ensuring the building and visual landscapes are accented rather than their parking facilities.
- (10) Bring buildings to the roadway and ensure proper proportioning to "enclose" the corridor, and provide a sense of place.
- (11) Provide for preservation of historical structures.
- (12) Provide for public amenities and pedestrian conveniences.
- (13) Maintain flexibility so as not to restrict creativity in development and design, while producing development that adheres to the intent of the District, contributing positively to the image of the town.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 9. This Planning Area is south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 18: Mixed Use Development:* The Town shall continue to maintain land development regulations that accommodate mixed-use projects, planned developments and other types of non-traditional developments to promote a diverse, imaginative and innovative living and working environment.

Application Details

On April 12, 1989, Margaret Viele entered into a Declaration of Restrictions, on the property located at 6990 Griffin Road. At the time, the property was zoned, A-1, Agricultural District. The intent of this Declaration was to vest the rights to certain uses that historically occurred on the property, and for the purpose of protecting the health, safety, and welfare of the residents of the subject property and the citizens of the Town of Davie.

Specifically, the Declaration of Restrictions limits the use of the property to the following: retail sale of antiques and/or county crafts within a completely enclosed structure not to exceed 6,000 square feet in floor area; agricultural uses such as the cultivation of crops, groves and grove packing house, and sales of agricultural products produced on site.

On February 2, 2000, the northern 300' of the property adjacent to Griffin Road was rezoned to Griffin Corridor District (West Gateway Use Zone 1), with the intent of shaping urban form and land use along the Griffin Road corridor. The property was recently sold to Lakeside Village at Davie, LLC. and a development proposal for the property is currently under consideration.

Staff Analysis

The Declaration of Restrictions must be terminated in order to allow any use permitted by the Griffin Corridor Regulations.

Findings of Fact

Approval of the request is necessary in order to implement the Griffin Corridor regulations.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Planning and Zoning Board Recommendation

A recommendation from the Planning and Zoning Board is not required by the Florida Statutes or the Town Code since the Declaration of Restrictions were voluntary and were not imposed as the result of a condition of approval for a development request.

Town Council Action

Exhibits

1. Future Land Use Plan Map
2. Zoning and Aerial Map
3. Justification
4. Declaration of Restrictions

Prepared by: _____

Reviewed by: _____

LAKESIDE AT DAVIE

APPLICATION FOR REZONING AND COMMERCIAL FLEXIBILITY ALLOCATION

REZONING APPLICATION

From Griffin Corridor District (West Gateway Zone 1) and A-1 to Griffin Corridor District for 30.8 acre parcel. The application includes the property where the Osterhoudt house currently exists.

COMMERCIAL FLEXIBILITY

Allocation of 4.3 acres of Commercial Flexibility to permit mixed use development of retail/office and 28 residential units.

MODIFICATION TO DECLARATION

In conjunction with the rezoning application, it is requested that the Declaration of Restrictions for the Viele Property be terminated or amended to permit the Lakeside at Davie development as proposed.

LAND USE

The Lakeside at Davie property is divided into three land use categories. The Griffin Road frontage portion of the property to a depth of approximately 350 feet is designated Residential Low Medium Density at 10 dwelling units per gross acre; the next approximately 700 feet to the South of the Low Medium property is designated Residential Low (5) at five units per gross acre; and the southern approximately 250 feet of the property is designated Estate Residential at one unit per gross acre.

EXISTING ZONING

The northern approximately 350 feet of the property is currently zoned in the Griffin Road Corridor District. The remainder of the property is zoned A-1 (Agricultural).

LAKESIDE AT DAVIE DEVELOPMENT PROPOSAL

The applicant proposes to rezone the entire 30.8 acre parcel to the Griffin Road Corridor District in accordance with the Master Plan which is submitted as part of the rezoning application. In conjunction with the rezoning of the property the applicant is requesting the allocation of 4.3 acres of Commercial Flexibility on the northern 300 feet of the property to permit a mixed use component to be constructed. The property, which is known as the Viele Property, is currently subject to a Declaration of Restrictions imposed by the Town in 1989 which restricts the use of the Viele Property to the retail sale of antiques and certain agricultural uses. The Town Attorney has issued

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an opinion that the Declaration is still in effect and accordingly must be terminated or modified to permit the proposed Lakeside at Davie project.

The applicant also proposes to incorporate the Osterhoudt house property as part of the Lakeside at Davie development and proposes to relocate the existing house to the Davie School property where the Viele family house has been relocated. The Osterhoudt family has already donated the house to the Town and the applicant will fund the relocation expenses.

As shown on the Master Plan, the northern approximately 300 feet of the property will contain two mixed use three story buildings with a total of approximately 15,000 square feet of retail/office uses on the first floor and a total of 28 condominium units on the second and third floors. The entrance into the development is solely from Griffin Road and dissects the two mixed use buildings. At the southern end of the entrance road, the Master Plan depicts a common area, passive park and lake feature. The exact features to be developed will be determined during the site plan review process.

To the South of the mixed use buildings the applicant proposes to develop 63 single family homes with an average lot size of approximately 6,900 square feet. The southern approximately 250 feet of the property, which generally corresponds with the area designated Estate density on the land use plan, will be contain a lake feature only.

CRITERIA FOR REZONING

The Griffin Road Corridor District has a stated purpose to, among other goals, promote planned developments rather haphazard speculative development and to permit a mix of residential and nonresidential development including mixed uses within buildings or parcels. Lakeside at Davie has been designed to address these and all of the other goals as set forth in Sec. 12-32.301 including the protection of the integrity of surrounding residential developments.

Section 27-803(g) of the Town Code contains certain criteria to be considered by the Town in evaluating an application for rezoning. These criteria are addressed as follows:

- (1) Whether the proposed change is contrary to the adopted comprehensive plan:

The rezoning is in fact consistent with both the comprehensive plan and the intent of the Griffin Road Corridor District. The proposed development addresses the goal of providing mixed use corridor related uses along Griffin Road while protecting the residential neighborhoods south of Griffin Road.

- (2) Whether the proposed change would create an isolated zoning district.

The proposed rezoning would in fact create an extension of the existing Griffin Road Corridor zoning.

- (3) Existing zoning district boundaries are illogically drawn in relation to existing conditions.

The northern portion of the property is already zoning Griffin Road Corridor District while the remainder is zoned A-1 which is a holding zone for future development.

- (4) The proposed change will not adversely affect living conditions in the neighborhood.

The Lakeside at Davie development has been designed to minimize impact on the surrounding neighborhoods. There only access to the development is from Griffin Road and the single family home component of the development has been placed adjacent to the existing single family home neighborhoods.

- (5) The proposed change will not create excessive traffic or affect public safety.

All traffic will be to and from Griffin Road and will not affect any residential neighborhoods. The traffic generation for the proposed development will modest in that the residential intensity of the development is well below the intensity permitted under the land use plan. The traffic impact on the regional road network will be evaluated by Broward County in conjunction with the platting process.

- (6) The proposed change will not adversely affect property values.

Lakeside at Davie is compatible with the surrounding neighborhoods and will be a high quality, planned development. This type of development will enhance the surrounding property values.

- (7) The proposed change will not be a deterrent to the improvement of other property in accord with existing regulations.

The rezoning will in fact act as an impetus for future developments consistent with the Griffin Road Corridor District.

- (8) The proposed change will not constitute a grant of special privilege.

The proposed change is consistent with the intent of the Town's zoning regulations and represents the Town's vision for the Griffin Road Corridor.

- (9) There are substantial reasons why the property cannot be used in accord with the existing zoning.

A portion of the property is zoned Griffin Road Corridor. The remainder of the property is zoned A-1 which is a holding zone pending rezoning consistent with the land use plan.

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DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned, Margaret Hiele, a(n) individual being the owner(s) of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof, voluntarily make the following Declaration of Restrictions covering the above-described real property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this dedication shall be binding upon the undersigned and upon all persons deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit of the Town of Davie, Florida.

1. The above-described property shall be limited to the following uses:

a. Retail Sale of Antiques, (ie. a work of art, piece of furniture, or decorative object representative of an earlier era) and/or country crafts: this shall not be construed to permit a Pawn Shop. Said uses shall be conducted within a completely enclosed structure not to exceed 6,000 square feet in floor area;

b. Agricultural uses such as cultivation of crops, groves and grove packing house, and sales of agricultural products produced on site, until such time as the area is converted to an urban use.

2. These restrictions shall not be construed to grant a use not allowable under the applicable zoning category of the subject property.

3. Development of the described property shall be in conformance with the approved master land use plan attached hereto and made a part hereof as Exhibit "B", or any amendment thereto approved by the Town of Davie.

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PM 1 53 55 PM 4 81

4. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or termination thereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.

5. Invalidity of any one portion of this Declaration of Restrictions or any portion of this document by judgement or court order in no way shall affect any other provisions, which shall remain in full force and effect.

6. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the (residents of the subject property and) citizens of the Town of Davie.

BR 1636576 / 482

IN WITNESS WHEREOF, I have set my hand and seal this 12 day of April, 1989.

Signed, sealed and delivered

Matthew J. Ward
Witness

(name and type corp.)

Louis J. Caruso
Witness

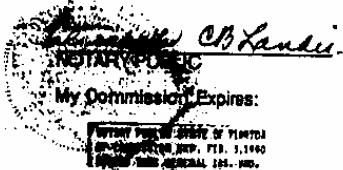
By: Margaret Viale
(Title)

STATE OF FLORIDA:

: SS

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 12 day of April, 1989, by Margaret Viale as owner of 6990 Griffin Rd., who acknowledged the contents of the foregoing instrument are true and correct.



BM 16365 PC 1403

Exhibit "A"

Legal Description of 6990 Griffin Road

The North 200.00 feet of Tract 56 of Sec. 27, Township 50 S., Range 41 E.
as Recorded in Plat Book 2, at Page 34 of the Public Records of Dade
County, Florida; Subject to any reservations, right-of-way dedications or
easements of record. Said lands situate, lying and being in the Town of
Davie, Broward County, Florida

RECORDED IN THE OFFICIAL RECORDS BOOK
OF BROWARD COUNTY, FLORIDA
L. A. HESTER
COUNTY ADMINISTRATOR

RECORDED IN THE OFFICIAL RECORDS BOOK
OF BROWARD COUNTY, FLORIDA
L. A. HESTER
COUNTY ADMINISTRATOR


AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BROWARD

Before me, the undersigned authority, personally appeared ROBERT M. BAKER, who after being duly sworn, deposes and states:

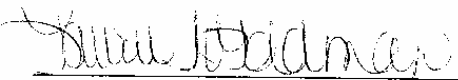
1. That he is a licensed attorney practicing in the State of Florida.
2. That the Affiant has examined the public records of Broward County, Florida and has determined that there was no Exhibit B attached to the Declaration of Restriction recorded in Official Records 16365, Page 481-484, notwithstanding the reference to an Exhibit B in Paragraph 3 thereof.

FURTHER AFFIANT SAYETH NAUGHT.



ROBERT M. BAKER

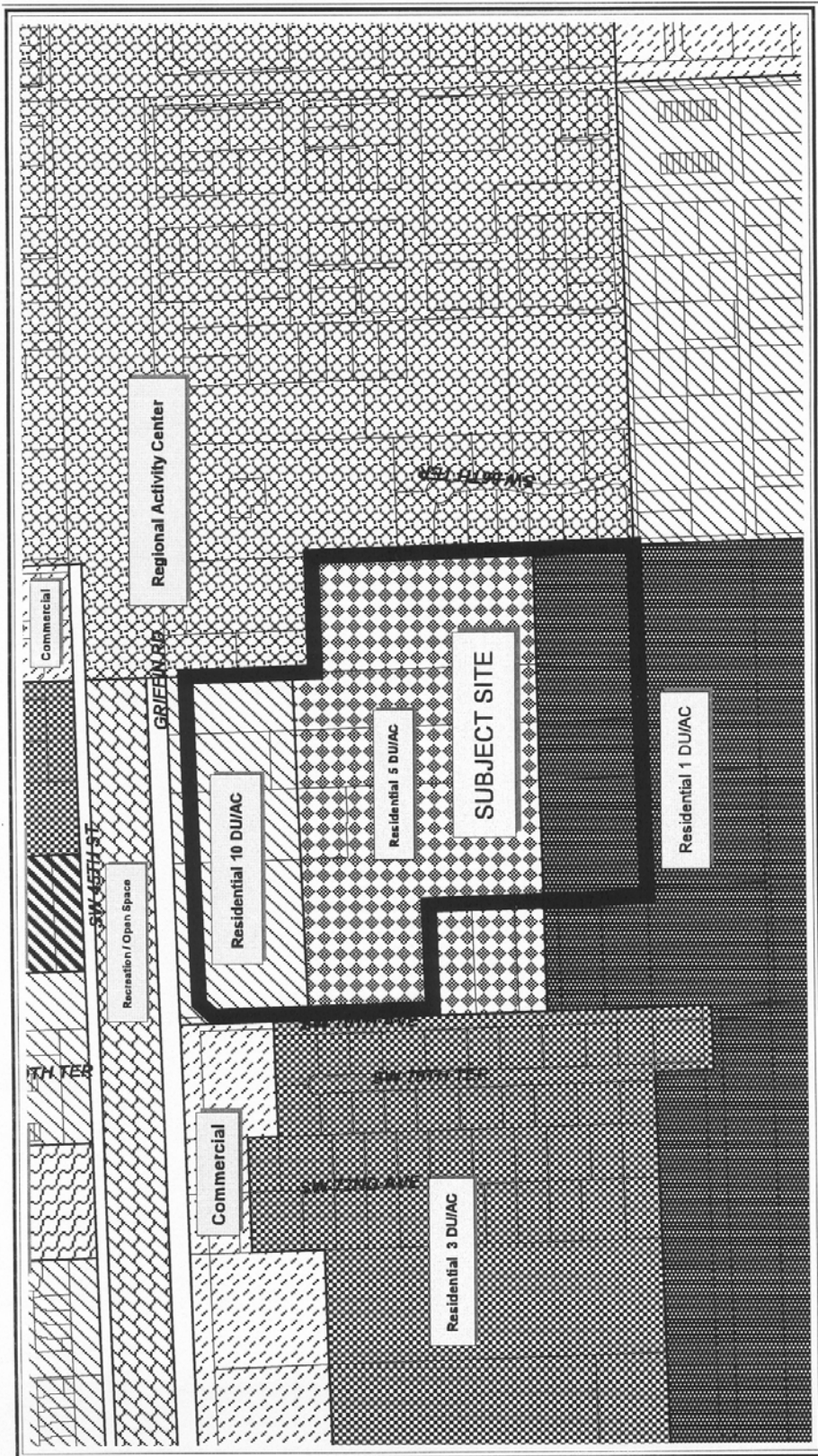
SWORN TO AND SUBSCRIBED before me this 30 day of September, 2004, by ROBERT M. BAKER, who is personally known to me.



Notary Public

My Commission Expires:



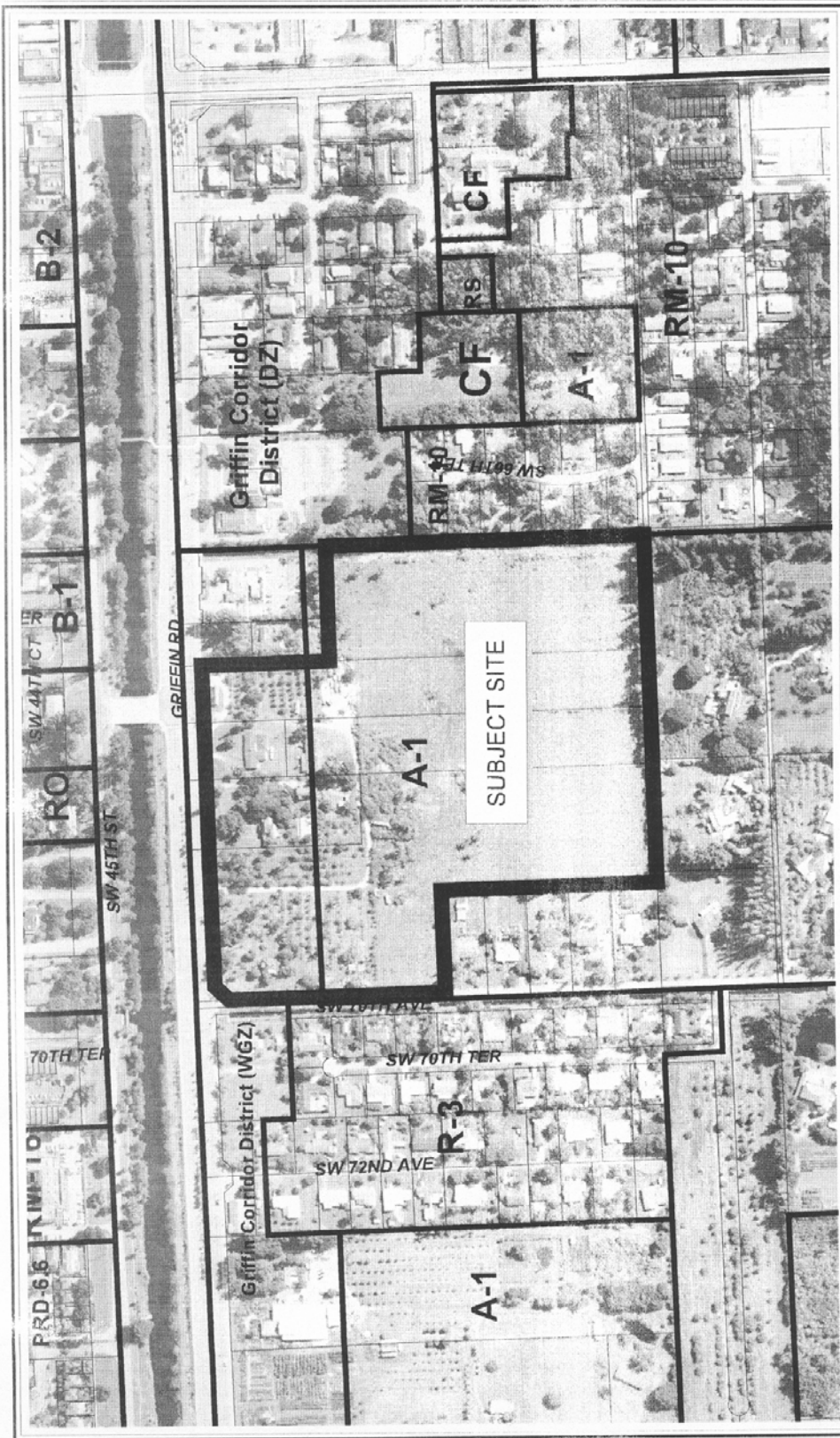


REZONING **ZB 9-1-04** **Future Land Use Map**

Prepared By: ID
 Date Prepared: 10/1/04



Planning & Zoning Division - GIS



REZONING **ZB 9-1-04** **Zoning and Aerial Map**

Prepared By: ID
 Date Prepared: 10/1/04



Date Flown:
 12/31/02

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Planning & Zoning Division - GIS

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